

MODEL RELIGIOUS FREEDOM RESTORATION ACT

Short title.--This act may be cited as the “**Religious Freedom Restoration Act of 2018.**”

Definitions.--As used in this act:

- (1) “Government” or “state” includes any branch, department, agency, instrumentality, or official or other person acting under color of law of the state, a county, special district, municipality, or any other subdivision of the state.
- (2) “Burden” means any state action that directly or indirectly constrains, inhibits, curtails or denies the exercise of religion by any person or compels any action contrary to a person’s exercise of religion. “Burden” includes, but is not limited to, withholding benefits, assessing criminal, civil or administrative penalties, or exclusion from governmental programs or access to governmental facilities.
- (3) “Demonstrates” means to meet the burden of going forward with the evidence and of persuasion.
- (4) “Exercise of religion” means an act or refusal to act that is substantially motivated by a religious belief, whether or not the religious exercise is compulsory or central to a larger system of religious belief.
- (5) “State action” means any law, and the implementation of that law by the government, including, but not limited to, state and local laws, ordinances, rules, regulations and policies, whether statutory or otherwise, or any other action by the state, a political subdivision of the state, an instrumentality of the state or political subdivision of the state, or a public official that is authorized by law in the state.

Free exercise of religion protected.--

- (1) State action or any action by any person based on state action shall not substantially burden a person’s right to exercise of religion, even if the burden results from a rule of general applicability, except that government may substantially burden a person’s exercise of religion only if it demonstrates that application of the burden to the person:
 - (a) Is in furtherance of a compelling governmental interest; and
 - (b) Is the least restrictive means of furthering that compelling governmental interest.
- (2) A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief.

Attorney's fees and costs.--The prevailing plaintiff in any action or proceeding to enforce a provision of this act is entitled to reasonable attorney's fees and costs to be paid by the government.

Applicability; construction.--

- (1) This act applies to all state law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this act.
- (2) State law adopted after the date of the enactment of this act is subject to this act unless such law explicitly excludes such application by reference to this act.
- (3) Nothing in this act shall be construed to authorize the government to burden any religious belief.
- (4) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of the State Constitution prohibiting laws respecting the establishment of religion.
- (5) Nothing in this act shall create any rights by an employee against an employer if the employer is not a governmental agency.
- (6) Nothing in this act shall be construed to affect, interpret, or in any way address that portion of the State Constitution and the First Amendment to the Constitution of the United States respecting the establishment of religion. This act shall not be construed to permit any practice prohibited by those provisions.

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